

SENATE CHAMBER
AUSTIN, TEXAS, Friday, March 24, 1871. }

Senate met pursuant to adjournment; President Campbell presiding.

Roll called; quorum present.

Absent—Excused—Senator Ruby.

Prayer by the Chaplain.

On motion of Senator Hall, the reading of the journal was dispensed with.

Senator Hall asked that the Second Assistant Secretary be excused for the day. Granted.

Senator Bell asked that the General Clerk be excused for the day. Granted.

REPORTS OF STANDING COMMITTEES.

Reports of Committee on Judiciary:

COMMITTEE ROOM,
AUSTIN, March 23, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 170, entitled "An act to provide for the location and survey of genuine land certificates, and for the issuance of patents for lands located in accordance with section four of article ten of the Constitution," instruct me to report the same back and recommend the passage of the accompanying bill as a substitute therefor.

Respectfully,

A. J. FOUNTAIN,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 23, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Judiciary, to whom was referred Senate bill No. 185, entitled "An act supplementary to the several acts now in force to regulate railroad companies, ask leave to report the same back and recommend its passage, with the accompanying amendment.

Respectfully,

A. J. FOUNTAIN,
Chairman.

Amendment to Senate bill No. 185: Amend section two, first and second lines, by striking out the words "at least a majority of the directors, and."

Reports read and laid over under the rules.

COMMITTEE ROOM,
AUSTIN, March 23, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: A majority of your Committee on Judiciary, to whom was referred the petition of John G. Boyle, having carefully considered the same, ask leave to report it back and recommend the passage of the accompanying bill.

Respectfully,

A. J. FOUNTAIN,
Chairman.

Report and bill read first time and laid over under the rules.
Report of Committee on Engrossed Bills:—

COMMITTEE ROOM,
AUSTIN, March 24, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared Senate bill No. 224, "An act to incorporate the Henderson Male and Female College in Rusk county," substitute Senate bill No. 168, "An act to incorporate the Galveston and Denver City Air Line Railway, and to promote the construction thereof," and Senate joint resolution No. 12, "Proposing an amendment to section six of article ten of the Constitution of the State of Texas," find the same to be correctly engrossed.

E. L. DOHONEY,
P. W. HALL.

Report read and received.

BILLS AND RESOLUTIONS.

By Senator Ford: Senate bill No. 278, "An act to incorporate the Waco Female College." Read first time and referred to committee on State Affairs.

By Senator Bowers: Senate bill No. 280, "A bill to be entitled an act amendatory of an act, to be entitled an act to amend an act prescribing the times of holding the district courts in the several judicial districts in this State," approved August 10, 1870, approved March 4, 1871. Read first time.

On motion of Senator Pyle the rules were suspended to place Senate bill No. 280 upon its second reading. Read second time.

On motion of Senator Baker Senate bill No. 280 was ordered engrossed.

On motion of Senator Pyle, the rules were further suspended, Senate bill No. 280 read third time and passed.

By Senator Bowers: a bill (Senate bill No. 279) to be entitled "An act to incorporate the Belton Bridge Company." Read first time.

On motion of Senator Fountain, the rules were suspended, Senate bill No. 279 read second time, and passed to engrossment.

On motion of Senator Baker, the rules were further suspended, Senate bill No. 279 read third time, and, on motion of Senator Pyle, Senate bill No. 279 passed.

BILLS ON A THIRD READING.

Senate joint resolution No. 7, "Instructing our Senators, and requesting our Representatives, to urge the opening of the Indian country north of Texas to settlement,"

On motion of Senator Evans, Senate joint resolution No. 7 was read third time and passed.

Message from the House by the Chief Clerk, transmitting for signature the following enrolled bills:

House bill No. 295, "An act to incorporate the Galveston Building Association."

House bill No. 61, "An act to authorize Alexander English to erect a toll bridge over Bois d'Arc creek, in the county of Fannin, Texas."

House bill No. 45, "An act for the relief of the widow and heirs of W. A. Smith, deceased."

Also for concurrence House bills as follows:

House bill No. 283, "An act to incorporate Waco Lodge No. 92, Ancient, Free and Accepted Masons."

House bill No. 309, "An act concerning quarantine regulations by counties and other corporations."

House bill No. 389, "An act to incorporate the Indianola, San Antonio and El Paso Railroad Company."

Under instructions from the President the Secretary carried to the House for concurrence, the following Senate bills:

Senate bill No. 28, "An act to provide for the employment of private clerks for the judges of the Supreme Court."

Senate bill No. 81, "An act to prevent the sale or distribution of spirituous or other intoxicating liquors, or the establishment of any

drinking saloon, gambling house, house of ill-fame, etc., within certain limits."

Senate bill No. 236, "An act to incorporate the Tyler Cemetery Association."

Senate Bill No. 198, "An act to organize the county of Pecos."

Senate bill No. 224, "An act to incorporate the Henderson Male and Female College, in Rusk county."

Senate bill No. 247, "An act to provide for the release of children or other persons, citizens of the State of Texas, who are, have been, or may hereafter be, held as captives by the Indians."

Also, Senate joint resolution as follows: Senate joint resolution No. 26, "For the relief of Dillard Cooper."

Senate joint resolution No. 7, "Instructing our Senators and requesting our Representatives in Congress to urge the opening of the Indian country north of Texas to settlement."

Also, informing the House that the Senate had passed, without amendment, House bill No. 418, "An act to amend an act entitled 'an act to create the county of Delta,' passed July 29, 1870."

Also, with amendment, House bill No. 55, "An act to amend an act entitled 'an act to adopt and establish a penal code for the State of Texas,' approved August 26, A. D. 1856, and to repeal an act entitled 'an act to amend articles 412 and 418 of an act to adopt and establish a penal code for the State of Texas,' approved December 16, A. D. 1863."

Senate joint resolution No. 12, proposing an amendment to section six, of article ten, of the Constitution of the State of Texas.

On motion of Senator Dohoney, Senate joint resolution No. 12 was read third time and passed by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Braughton, Cole, Dillard, Dohoney, Douglass, Evans, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Latimer, Mills, Parsons, Pettit, Pickett, Pridgen, Pyle, Rawson, Saylor, Shannon, Tendick—28.

Nays—None.

The Secretary carried the same to the House for concurrence.

Senate bill No. 10, an act to be entitled "An act for the relief of James E. Carleton, late sheriff of Jasper county.

On motion of Senator Gaines, Senate bill No. 10 read third time and passed by the following vote:

Yeas—Mr. President, Baker, Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Ford, Fountain, Gaines, Hertzberg, Hillebrandt, Latimer, Mills, Parsons, Pettit, Pickett, Pridgen, Pyle, Rawson, Saylor, Shannon—24.

Nays—None.

The Secretary carried the same to the House for concurrence.

On motion of Senator Gaines, the rules were suspended to take from file House bill No. 122, "An act for the relief of John McDonald." Read first time.

On motion of Senator Gaines, House bill No. 122 passed to second reading. Read second time.

On motion of Senator Gaines, House bill No. 122 was read third time and passed by the following vote :

Yeas—Mr. President, Baker, Bowers, Cole, Dillard, Dohoney, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Rawson, Saylor—19.

Nays—Braughton, Douglass, Evans, Latimer, Shannon, Tendick—6.

The Secretary returned the same to the House.

The hour having arrived for special order, Senate bill No. 168, an act to be entitled "An act to incorporate the Galveston and Denver City Air Line Railway, and promote the construction thereof," the Senate proceeded to the consideration of the same.

Senator Pickett moved that section ten be stricken out, which was lost by the following vote :

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Hall, Hertzberg, Hillebrandt, Mills, Pickett, Pyle, Tendick—13.

Nays—Mr. President, Baker, Bell, Flanagan, Ford, Fountain, Gaines, Latimer, Parsons, Pettit, Pridgen, Rawson, Saylor, Shannon—14.

Senator Flanagan moved the passage of the bill.

Senator Pickett asked the ruling of the Chair as to whether the passage of the bill would require a majority or a two-thirds vote.

The Chair ruled that a majority vote would pass the bill.

Senator Pickett appealed from the decision of the Chair.

The Chair was sustained by the following vote.

Yeas—Baker, Bell, Flanagan, Ford, Fountain, Gaines, Latimer, Mills, Parsons, Pettit, Pridgen, Rawson, Saylor, Shannon—14.

Nays—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Hertzberg, Hillebrandt, Pickett, Pyle, Tendick—11.

Senator Pyle moved a call of the Senate.

Call sustained. Absent, none.

On motion of Senator Saylor, the call was suspended.

The hour having arrived for the consideration of the special order, Senate bill No. 166, a bill to be entitled "An act to organize and maintain a system of public free schools in the State of Texas."

On motion of Senator Gaines the special order was postponed until the business under consideration was disposed of.

The question recurring on the passage of Senate bill No. 168, the yeas and nays were called for and passed by the following vote :

Yeas—Mr President, Baker, Bell, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pettitt, Pridgen, Rawson, Saylor, Shannon—16.

Nays—Bowers, Braughton, Cole, Dillard, Evans, Hertzberg, Hillebrandt, Pickett, Pyle, Tendick—10.

Senator Douglass having paired off with Senator Ruby, asked that the journal show that he opposed the passage of the bill.

Senator Bowers rose to a point of order that the bill had not passed—that it required a two-third vote to pass the bill.

The President decided the point of order not well taken.

Senator Pickett gave notice that a protest would be made by the minority vote on the passage of Senate bill No. 168.

Special order, substitute Senate bill No. 166, a bill to be entitled "An act to organize and maintain a system of public free schools in the State of Texas," the Senate proceeded to consider the same.

On motion of Senator Parsons, the Senate took a recess of five minutes.

IN SENATE.

Consideration of special order, Senate bill No. 166 resumed.

Senator Gaines moved a call of the Senate. Call sustained.

Absent—Senators Bell and Shannon.

Senators Bell and Shannon appearing, the call was suspended.

Senator Rawson moved to amend section one, line two, by inserting as follows: "He shall cause the system of public free schools, as contemplated in this act, to be put in active operation in the course of twelve months after his appointment, or forfeit all claims to salary, and be removed from office," which amendment was rejected by the following vote:

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Latimer, Pickett, Pyle, Rawson, Shannon—12.

Nays—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Saylor, Tendick—15.

Senator Pickett moved to amend section one, line twenty-one, by striking out the words "teachers and," which was rejected by the following vote:

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Ford, Latimer, Pickett, Pyle, Rawson, Shannon—13.

Nays—Mr. President, Baker, Bell, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Saylor, Tendick—14.

Senator Dohoney moved to amend by striking out the second section, and inserting in lieu thereof the following:

Section 2. *Be it further enacted*, That each organized county in

this State shall be a school district; and the justices of the peace, the police court, shall be *ex officio*, a board of school directors for the county, with power to make such rules and regulations and by-laws for the government of schools as may seem to them for the best for the interest of education in their respective counties, not inconsistent with the Constitution and laws of this State, to insure justice, equality and impartiality to all the scholastic population of their respective counties. They shall locate at least two school houses, for public school purposes, in each justice's precinct, and move, from time to time, as circumstances and the condition of the school fund may require and demand, at points most convenient to the citizens. They shall appoint for each precinct two board of trustees, one of which shall be of recently enfranchised citizens. They shall levy and collect a tax on the taxable property of the county, not to exceed one-fourth of one per cent, if necessary, to build the school houses, under their supervision herein provided for.

Which amendment was rejected by the following vote.

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Latimer, Pickett, Pyle, Rawson, Shannon—12.

Nays—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Parsons, Pettit, Pridgen, Saylor, Tensdick—14.

Senator Rawson offered the following amendment: amend section two, line five, after the word "district" strike out to the word "each," in line seven, and insert "each supervisor shall put in active operation the public free school system in his judicial district, as contemplated in this act, in the space of twelve months after his appointment, or shall forfeit all claims to salary and be removed from office."

On motion of Senator Fountain, the amendment was tabled, by the following vote:

Yeas—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Saylor, Tensdick—14.

Nays—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Latimer, Pickett, Pyle, Rawson, Shannon—12.

Senator Dohoney moved to amend as follows:

Amend section three by striking out all between the word "teachers," in line ten, and the word "to," at the end of line thirteen.

Senator Pickett offered the following as a substitute for the amendment offered by Senator Dohoney: Amend section three, line eight, by striking out all after the word "schools" down to and including the word "directors" in lines fourteen and fifteen.

Amendment and substitute rejected by the following vote:

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Latimer, Pickett, Rawson, Shannon—11.

Nays—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Saylor, Tendick—15.

Senator Rawson moved to adjourn to 10 o'clock A. M., Monday, which motion was lost by the following vote:

Yeas—Mr. President, Bowers, Braughton, Cole, Dillard, Douglass, Latimer, Pickett, Pridgen, Pyle, Rawson—11.

Nays—Baker, Bell, Dohoney, Evans, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Saylor, Shannon, Tendick—17.

Senator Dohoney moved to adjourn to 3 o'clock P. M., to-day. Motion lost.

Senator Pickett offered the following amendment: Amend section five by striking out all of the section after the word "Legislature," fourteenth line, which was rejected by the following vote:

Yeas—Bowers, Braughton, Cole, Dillard, Dohoney, Evans, Flanagan, Latimer, Pickett, Pyle, Rawson, Shannon—12.

Nays—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrandt, Mills, Parsons, Pettit, Pridgen, Saylor, Tendick—15.

Senator Fountain offered the following amendment: amend section six, line twenty-five, by inserting after "competency," "or that the residence of said child or ward is over three miles distant from the nearest school, and where it is shown to the satisfaction of the teacher that the absence of said child or ward was occasioned by ill-health or danger from hostile Indians."

Senator Pickett offered the following as a substitute for Senator Fountain's amendment: Amend section six by inserting after the word "competency" lines twenty-four twenty-five the words "and that when such child or ward may have been in ill health or where no public school is established within one mile of the residence of such child or ward:"

Senator Pridgden introduced the following report of Committee on enrolled bills:

COMMITTEE ROOM,
AUSTIN, March 24, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Enrolled bills have examined and find correctly enrolled Senate bill No. 112, entitled "An act for the relief of the Eastern Texas Railroad Company," and substitute Senate bill No. 39, entitled "An act supplementary to an act to regulate

the disposal of the public lands of the State of Texas,' approved August 12, A. D. 1870," and to-day, at 12 o'clock M., presented them to the Governor for his approval.

B. J. PRIDGEN,
Chairman.

Report read and received.

Pending the consideration of the substitute offered by Senator Pickett, on motion of Senator Fountain, the Senate adjourned to 10 o'clock, A. M. Monday.
